

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 170

## **SENATE BILL 1419**

AN ACT

AMENDING TITLE 20, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-847; AMENDING TITLE 20, CHAPTER 4, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1057.12; AMENDING TITLE 20, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1342.06; AMENDING TITLE 20, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 20-1402.04 AND 20-1404.04; AMENDING SECTION 32-1289, ARIZONA REVISED STATUTES; RELATING TO DENTISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 4, article 3, Arizona Revised Statutes,  
3 is amended by adding section 20-847, to read:

4 20-847. Contracts; dentists; covered services; definition

5 A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011,  
6 BETWEEN A DENTAL SERVICE CORPORATION AND A DENTIST WHO IS LICENSED TO  
7 PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO  
8 AN INDIVIDUAL COVERED UNDER A SUBSCRIPTION CONTRACT BASED ON A FEE SET BY THE  
9 DENTAL SERVICE CORPORATION UNLESS THE SERVICE FOR WHICH THE FEE APPLIES IS A  
10 COVERED SERVICE UNDER THE INDIVIDUAL'S SUBSCRIPTION CONTRACT.

11 B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A DENTAL SERVICE  
12 CORPORATION TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT  
13 ARE ADMINISTERED BUT NOT INSURED BY THE DENTAL SERVICE CORPORATION.

14 C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE  
15 FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A SUBSCRIPTION CONTRACT  
16 WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT,  
17 COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY  
18 LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

19 Sec. 2. Title 20, chapter 4, article 9, Arizona Revised Statutes, is  
20 amended by adding section 20-1057.12, to read:

21 20-1057.12. Contracts; dentists; covered services; definition

22 A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011,  
23 BETWEEN A HEALTH CARE SERVICES ORGANIZATION AND A DENTIST WHO IS LICENSED TO  
24 PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO  
25 AN INDIVIDUAL COVERED UNDER AN EVIDENCE OF COVERAGE BASED ON A FEE SET BY THE  
26 HEALTH CARE SERVICES ORGANIZATION UNLESS THE SERVICES FOR WHICH THE FEE  
27 APPLIES IS A COVERED SERVICE UNDER THE INDIVIDUAL'S EVIDENCE OF COVERAGE.

28 B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A HEALTH CARE  
29 SERVICES ORGANIZATION TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY  
30 PLANS THAT ARE ADMINISTERED BUT NOT INSURED BY THE HEALTH CARE SERVICES  
31 ORGANIZATION.

32 C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE  
33 FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER AN EVIDENCE OF COVERAGE  
34 WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT,  
35 COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY  
36 LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

37 Sec. 3. Title 20, chapter 6, article 4, Arizona Revised Statutes, is  
38 amended by adding section 20-1342.06, to read:

39 20-1342.06. Contracts; dentists; covered services; definition

40 A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011,  
41 BETWEEN A DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO PRACTICE IN  
42 THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN INDIVIDUAL  
43 COVERED UNDER A DISABILITY INSURANCE POLICY BASED ON A FEE SET BY THE  
44 DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A COVERED  
45 SERVICE UNDER THE INDIVIDUAL'S DISABILITY INSURANCE POLICY.

1 B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A DISABILITY INSURER  
2 TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE  
3 ADMINISTERED BUT NOT INSURED BY THE DISABILITY INSURER.

4 C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE  
5 FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A DISABILITY INSURANCE POLICY  
6 WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT,  
7 COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY  
8 LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

9 Sec. 4. Title 20, chapter 6, article 5, Arizona Revised Statutes, is  
10 amended by adding sections 20-1402.04 and 20-1404.04, to read:

11 20-1402.04. Contracts; dentists; covered services; definition

12 A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011,  
13 BETWEEN A GROUP DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO PRACTICE  
14 IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO AN  
15 INDIVIDUAL COVERED UNDER A GROUP DISABILITY POLICY BASED ON A FEE SET BY THE  
16 GROUP DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES IS A  
17 COVERED SERVICE UNDER THE INDIVIDUAL'S GROUP DISABILITY POLICY.

18 B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A GROUP DISABILITY  
19 INSURER TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE  
20 ADMINISTERED BUT NOT INSURED BY THE GROUP DISABILITY INSURER.

21 C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE  
22 FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A GROUP DISABILITY POLICY  
23 WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT,  
24 COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY  
25 LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

26 20-1404.04. Contracts; dentists; covered services; definition

27 A. A CONTRACT, ENTERED INTO OR RENEWED ON OR AFTER JANUARY 1, 2011,  
28 BETWEEN A BLANKET DISABILITY INSURER AND A DENTIST WHO IS LICENSED TO  
29 PRACTICE IN THIS STATE SHALL NOT REQUIRE THE DENTIST TO PROVIDE SERVICES TO  
30 AN INDIVIDUAL COVERED UNDER A BLANKET DISABILITY POLICY BASED ON A FEE SET BY  
31 THE BLANKET DISABILITY INSURER UNLESS THE SERVICES FOR WHICH THE FEE APPLIES  
32 IS A COVERED SERVICE UNDER THE INDIVIDUAL'S BLANKET DISABILITY POLICY.

33 B. THIS SECTION DOES NOT RESTRICT THE ABILITY OF A BLANKET DISABILITY  
34 INSURER TO ESTABLISH DENTAL BENEFITS FOR SERVICES OFFERED BY PLANS THAT ARE  
35 ADMINISTERED BUT NOT INSURED BY THE BLANKET DISABILITY INSURER.

36 C. FOR THE PURPOSES OF THIS SECTION, "COVERED SERVICE" MEANS A SERVICE  
37 FOR WHICH ANY REIMBURSEMENT IS AVAILABLE UNDER A BLANKET DISABILITY POLICY  
38 WITHOUT REGARD TO CONTRACTUAL LIMITATIONS BY A DEDUCTIBLE, COPAYMENT,  
39 COINSURANCE, WAITING PERIOD, ANNUAL OR LIFETIME MAXIMUM, FREQUENCY  
40 LIMITATION, ALTERNATIVE BENEFIT PAYMENT, EXCLUSION OR OTHER LIMITATION.

41 Sec. 5. Section 32-1289, Arizona Revised Statutes, is amended to read:

42 32-1289. Employment of dental hygienist by public agency,  
43 institution or school; definitions

44 A. A public health agency or institution or a public or private school  
45 authority may employ dental hygienists to perform necessary dental hygiene

1 procedures under either direct or general supervision pursuant to section  
2 32-1281.

3 B. A dental hygienist employed by or working under contract or as a  
4 volunteer for a public health agency or institution or a public or private  
5 school authority before an examination by a dentist may screen patients and  
6 apply topical fluoride without entering into an affiliated practice  
7 relationship pursuant to this section.

8 C. A public health agency or institution, a public or private school  
9 authority or A government sponsored program that provides dental services may  
10 enter into a contract for dental hygiene services with licensees who have  
11 entered into an affiliated practice relationship pursuant to this section.

12 D. The dental hygienist and the affiliated dentist must notify the  
13 board of the beginning of the affiliated practice relationship and provide  
14 the board with a copy of the agreement and any amendments to the agreement  
15 within thirty days after the effective date of the agreement or amendment.  
16 The dental hygienist and the affiliated dentist must also notify the board  
17 within thirty days after the termination date of the affiliated practice  
18 relationship if this date is different than the contract termination date.

19 E. A dental hygienist must satisfy all of the following to be eligible  
20 to enter into an affiliated practice relationship with a dentist to perform  
21 dental hygiene procedures in affiliated practice settings:

22 1. Hold an active license pursuant to this article.

23 2. Enter into an affiliated practice relationship with a specific  
24 dentist who is licensed pursuant to this chapter.

25 3. Have held a license as a dental hygienist for at least five years  
26 and actively engaged in dental hygiene practice for at least two thousand  
27 hours in the five years immediately preceding the affiliated practice  
28 relationship.

29 F. An affiliated practice relationship between a dental hygienist and  
30 a dentist must be in writing and must include at least the following:

31 1. An identification of the affiliated practice settings in which the  
32 dental hygienist may engage in dental hygiene practice pursuant to an  
33 affiliated practice relationship.

34 2. An identification of the procedures and standing orders the dental  
35 hygienist must follow. The standing orders must include the circumstances in  
36 which a patient may be seen by a dental hygienist.

37 3. A requirement that the patients who have been assessed by the  
38 dental hygienist shall be directed to the affiliated dentist for treatment or  
39 planning that is outside of the dental hygienist's scope of practice and that  
40 the affiliated dentist shall make any necessary referrals to other dentists.

41 4. A requirement that a patient be seen by a licensed dentist within  
42 twelve months of initial treatment by the dental hygienist. If the patient  
43 has not received an examination and a treatment plan by a licensed dentist,  
44 the dental hygienist shall not provide further treatment.

1           5. A requirement that a patient sixty-five years of age or older be  
2 seen by a licensed dentist after treatment by the dental hygienist. If the  
3 patient has not received an examination and a treatment plan by a licensed  
4 dentist, the dental hygienist shall not provide further treatment.

5           6. A requirement that if a patient presents with a complex medical  
6 history or medication regimen, the affiliated dental hygienist shall consult  
7 with the affiliated dentist prior to any treatment by the affiliated dental  
8 hygienist. The patient shall be directed to the affiliated dentist and the  
9 affiliated dentist shall make any necessary referrals to other licensed  
10 dentists.

11           7. A requirement that the patient be informed that the dental  
12 hygienist providing the care is a licensed dental hygienist and that the care  
13 does not take the place of a ~~dental examination and cannot be billed or~~  
14 ~~reimbursed as a dental examination~~ DIAGNOSIS OR TREATMENT PLAN BY A DENTIST.

15           8. Pursuant to ~~paragraphs~~ PARAGRAPH 3, 4 or 5 of this subsection, a  
16 requirement that the patient be informed that further dental hygiene services  
17 may not be provided unless the patient has been seen by a licensed dentist.

18           G. The board shall adopt rules regarding participation in affiliated  
19 practice relationships by dentists and dental hygienists that specify the  
20 following:

21           1. Additional continuing education requirements that must be satisfied  
22 by a dental hygienist.

23           2. Additional standards and conditions that may apply to affiliated  
24 practice relationships.

25           3. Compliance with the dental practice act and rules adopted by the  
26 board.

27           H. Each dentist in an affiliated practice relationship must:

28           1. Be available to provide an appropriate level of contact,  
29 communication and consultation with the affiliated dental hygienist.

30           2. Adopt standing orders applicable to dental hygiene procedures that  
31 may be performed and populations that may be treated by the dental hygienist  
32 under the terms of the applicable affiliated practice agreement and to be  
33 followed by the dental hygienist in each affiliated practice setting in which  
34 the dental hygienist performs dental hygiene services under the affiliated  
35 practice relationship.

36           3. Adopt procedures to provide timely referral of patients referred by  
37 the affiliated dental hygienist to a licensed dentist for examination and  
38 treatment planning. If the examination and treatment planning is to be  
39 provided by the dentist, that treatment shall be scheduled in an appropriate  
40 time frame. The dentist or the dentist to whom the patient is referred must  
41 be geographically available to see the patient.

42           I. Each affiliated dental hygienist when practicing under an  
43 affiliated practice relationship:

44           1. May perform only those duties within the terms of the affiliated  
45 practice relationship.

1           2. Must maintain an appropriate level of contact, communication and  
2 consultation with the affiliated dentist.

3           3. Is responsible and liable for all services rendered by the dental  
4 hygienist under the affiliated practice relationship.

5           J. Subject to the terms of the written affiliated practice agreement  
6 entered into between a dentist and a dental hygienist, a dental hygienist may  
7 perform all dental hygiene procedures authorized by this chapter except for  
8 the procedures identified in section 32-1281, subsection B, paragraphs 4, 5  
9 and 6 OR ANY DIAGNOSTIC PROCEDURES THAT ARE REQUIRED TO BE PERFORMED BY A  
10 DENTIST.

11           K. Subject to the terms of the written affiliated practice agreement  
12 entered into between a dentist and a dental hygienist, a dental hygienist may  
13 perform dental hygiene procedures in affiliated practice settings only on a  
14 person who is any of the following:

- 15           1. Enrolled in a federal, state, county or local health care program.  
16           2. Participating in the national school meal program.  
17           3. From a family with a household income that is less than two hundred  
18 per cent of the federal poverty guidelines.

19           L. This section does not require any dentist or dental hygienist to  
20 enter into an affiliated practice relationship.

21           M. For the purposes of this section:

22           1. "Affiliated practice setting" means the delivery of dental hygiene  
23 services by a dental hygienist under an affiliated practice relationship  
24 through a public health agency or institution, a public or private school  
25 authority or a government sponsored program that provides dental services.

26           2. "Screen" means visually examining the teeth and hard or soft tissue  
27 of the mouth for obvious oral health problems for the purpose of advising the  
28 patient of the need for dental care, and shall not include an examination  
29 diagnosis or treatment planning.

APPROVED BY THE GOVERNOR APRIL 26, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2010.